

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

T-MOBILE USA, INC., a Delaware
corporation,

Plaintiff,

v.

SHERMAN TERRY, et al,

Defendant.

CASE NO. C11-5655RBL

ORDER ON VARIOUS MOTIONS
AND SETTING ORAL ARGUMENT

THIS MATTER is before the Court on the following motions: T-Mobile's Motion for Partial Summary Judgment on most of its claims against Defendant George Collette [Dkt. #134]; Defendants' Second Motion for Order to Show Cause and for Sanctions against Defendant George Collette [Dkt. #138]; Defendant Collette's "Motion for Order" [Dkt. #150]; and Defendant Collette's Motion for Preliminary Injunction [Dkt. #157]. These Motions follow the Court's prior Order of Civil Contempt [Dkt. #124], which deferred the issue of appropriate sanctions, pending Defendant Collette's future conduct and compliance with the Court's Orders.

T-Mobile seeks summary judgment on its claims arising from its allegations that Collette stole air time from them and falsely advertised that he was authorized to sell T-Mobile phones and airtime. T-Mobile argues that it has demonstrated Collette's violations, and that Collette has

1 admitted them, because he failed to respond to Requests for Admission (despite the passage of
2 almost a year and several motions to compel). It also argues that Collette has failed to
3 meaningfully respond to its Motion. This substantive Motion is discussed at the end of this
4 Order.

5 T-Mobile also asks the Court to sanction¹ Collette for his repeated violations of Judge
6 Pannell's Order Granting Preliminary Injunctions [Dkt. #s 26 and 82] and this Court's prior
7 Order of Contempt. It also asks the Court to sanction

8 Collette asks the Court to assist him [Dkt. #150] in removing advertisements on
9 JLAFORUMS.COM, which he claims he did not place there and which are presumably a violation of
10 the Preliminary Injunction. The Court does not provide such services to litigants before it. The
11 responsibility for compliance with the Court's Orders lies solely on the Defendant. Mr.
12 Collette's Motion for an Order providing assistance in removing his advertisements is DENIED.

13 Collette also asks the Court to Enjoin the Plaintiff from soliciting him with their products
14 and services, in what he claims is a violation of the Court's Injunction against him selling T-
15 Mobile products and Services. [Dkt. #157]. This Motion is frivolous. It is far from clear what
16 Mr. Collette is even talking about with respect to T-Mobile's "aggressive" attempts to "solicit"
17 him. The Court's Injunction does not prevent T-Mobile from advertising This Motion is
18 DENIED.

19 T-Mobile seeks an Order compelling Mr. Collette to Show Cause why he should not be
20 held in contempt for continuing to violate the Court's Preliminary Injunction, even in the face of
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23 ¹T-Mobile's Second Motion for Sanctions [Dkt. #166], against Mr. Collette and
24 Defendants Marilou Collette, Sara Hoffman, and Mathew Collette for failing to comply with this
Court's discovery and other Orders, will be addressed after its noting date, if necessary.

1 the Court's prior Order finding him to be in contempt of that Order. Plaintiff also asks the Court
2 to Order Collette to refrain from contacting T-Mobile employees regarding this case.

3 As to the latter request, the Motion is DENIED. Given the severity of the Plaintiff's
4 claims against him and the size of the judgment they seek, the Court encourages Mr. Collette to
5 use his time more productively. But it will not take the extraordinary step of prohibiting one
6 litigant from contacting another on this record.

7 The Court will ORDER Mr. Collette to SHOW CAUSE why he should not be held in
8 further contempt of Court, and face sanctions, for his continued failure to comply with the
9 Court's Preliminary Injunction. Mr. Collette shall file **any written response** or evidence by
10 Wednesday **April 4**, and **shall appear** in court Wednesday **April 11 at 10:00 a.m.** for a hearing
11 on the matter. The parties should be prepared to address the amount of sanctions, if any, to be
12 awarded for any proven violations.

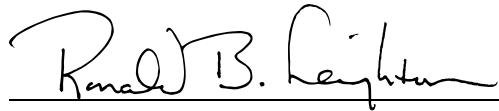
13 Finally, the Plaintiff's Motion for Partial Summary Judgment on its claims One, Three,
14 Four, Five, Six, Eight, Nine, Thirteen and Fourteen against Mr. Collette appears to be well taken.
15 Mr. Collette's Response is primarily that he was duped by Defendant Terry, and that he did not
16 know he was violating the law. This defense does not address why he has apparently continued
17 to sell phones with T-Mobile SIM cards (without authorization) and why he continues, even
18 now, to advertise that he is doing so.

19 The Court will hear oral argument on the Motion for Partial Summary Judgment [Dkt.
20 #134] at the same time as the hearing on the Order to Show Cause (Wednesday, April 11 at
21 10:00 a.m.). The Court is inclined to enter an Order Granting the Motion. Though he is
22 appearing pro se, Mr. Collette must be prepared to meet his summary judgment burden in light of
23 the evidence submitted regarding his conduct and the alleged violations of various statutes
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1 addressed in the Motion. Mr. Collette should also be prepared to address the Plaintiff's claimed
2 damages.

3 IT IS SO ORDERED.

4 Dated this 2nd day of April, 2012.

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7 RONALD B. LEIGHTON
8 UNITED STATES DISTRICT JUDGE
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